

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUO NAKAMURA
and
HARUHIKO HORI

Appeal No. 2001-0327
Application 08/990,295

ON BRIEF

Before CALVERT, FRANKFORT and McQUADE, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 18. On page 2 of the examiner's answer (Paper No. 20), it is indicated that the rejections of claims 5, 12 and 17 have been withdrawn since

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such claims "are now objected to as claims dependent upon rejected claims."

Accordingly, only the examiner's rejection of claims 1 through 4, 6 through 11, 13 through 16 and 18 remains for our consideration in this appeal. Claims 6 and 9 through 14 were amended subsequent to the final rejection in a paper filed September 13, 1999 (Paper No. 13).

Appellants' invention relates to a sheet feeder unit which supplies cut sheets to a copying machine, printer, facsimile machine, or image reading apparatus from a stack of such sheets piled on a support tray. As noted on page 4 of the specification, it is a primary objective of the invention to provide a sheet feeder unit capable of successfully separating and supplying cut sheets of any type one by one to the various appliances noted above (i.e., copy machine, printer, etc.). As also indicated on page 4 of the specification, this objective is accomplished by providing a sheet feeder unit comprising

a support member on which a pile of sheets
are loaded; a feeding roller for sending

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out the sheets in a sheet feeding direction, which contacts to one side of the sheets piled on the support member; and a friction member being supported at one end and having a frictional force yielding portion which is capable of contacting a leading end of the cut sheets in a sheet feeding path, the frictional force yielding portion having a static friction coefficient of 1.0 to 1.5 with

respect to the sheets piled on the support member.

Appellants' invention also addresses a method of feeding sheets using a sheet feeder unit as described above.

Independent claims 1, 8, 15 and 18 are representative of the subject matter on appeal and a copy of those claims can be found in the Appendix to appellants' brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Lo et al. (Lo)	5,520,381	May 28, 1996
Nakagawa et al. (Nakagawa)	5,769,411	June 23, 1998
		(filed May 22, 1996)

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Claims 1 through 4, 6 through 11, 13 through 16 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lo in view of Nakagawa. The details of this rejection are set forth on pages 3-5 of the examiner's answer (Paper No. 20).¹

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determination which follows.

¹ We note that the examiner's position as set forth in the answer is somewhat different than that which was set forth in the final rejection (Paper No. 8). However, appellants have filed a reply brief (Paper No. 22) addressing the examiner's new position and also the miscellaneous communication mailed to appellants on March 24, 2000 (Paper No. 19).

Having carefully reviewed the envelope feeder described in the Lo patent and the sheet feeding apparatus of Nakagawa, we find that we are in full agreement with appellants' arguments on pages 6-12 of their brief and in their reply brief. Like appellants, we find the examiner's determination that Lo has a friction member with a frictional force yielding portion that has a static friction coefficient of 1.0 to 1.5 to be entirely without foundation. Nothing in Lo mentions a static coefficient of friction in the claimed range, or of any other value, for the envelope separating members (50, 53, 73) therein. Moreover, we are in total agreement with appellants that the examiner's theory (answer, page 3) of some well known (standard engineering handbook) direct relationship between durometer hardness and static coefficient of friction is based on total speculation and conjecture and has been arrived at by inappropriately extrapolating a

general relationship from some specific individual durometer hardness-coefficient of friction examples in the patents

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mentioned in the communication mailed to appellants on March 24, 2000 (Paper No. 19), which patents have not been applied by the examiner in a rejection, are not before us on appeal and, in any event, clearly do not establish a general relationship between durometer hardness and static coefficient of friction like that the examiner has improperly fabricated therefrom.

As for the examiner's attempted combination of the variable friction coefficient feature (col. 11, lines 1-6) of Nakagawa with the entirely structurally and functionally different frictional members in Lo, and the alteration of the mounting arrangement for the friction members of Lo to include an adjustment knob as set forth in appellants' claim 18 on appeal, we view both of these modifications of Lo to be based entirely on impermissible hindsight derived from appellants' own teachings and, thus, to be classic cases of hindsight reconstruction.

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In light of the foregoing, we must refuse to sustain the examiner's rejection of claims 1 through 4, 6 through 11, 13 through 16 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Lo in view of Nakagawa.

The decision of the examiner is reversed.

REVERSED

	IAN A. CALVERT)	
	Administrative Patent Judge)	
)	
)	
)	BOARD OF
PATENT)	
	CHARLES E. FRANKFORT)	APPEALS
AND)	
	Administrative Patent Judge)	
INTERFERENCES)	
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)	
	JOHN P. McQUADE)	
	Administrative Patent Judge)	

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